

# BULKY DOCUMENTS

(Exceeds 300 pages)

Proceeding/Serial No: 91122000

Filed: 02-01-05

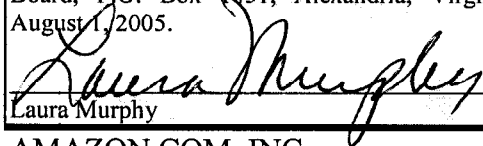
Title: MOTION FOR  
SUMMARY  
JUDGMENT

Part 3 of 3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

**Certificate of Mailing Under 37 CFR §1.10**

I hereby certify that this AFFIDAVIT OF SARAH SILBERT IN SUPPORT OF AMAZON.COM'S MOTION FOR SUMMARY JUDGMENT is being deposited with the U.S. Postal Service as Express Mail No. EV613591121US in an envelope addressed to: U.S. Patent & Trademark Office, Trademark Trial & Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 1, 2005.

  
Laura Murphy

In re Serial No. 75-938,128

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No. 91,122,000

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

BOX TTAB NO FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**AFFIDAVIT OF SARAH SILBERT IN SUPPORT OF AMAZON.COM'S  
MOTION FOR SUMMARY JUDGMENT**

I, Sarah Silbert, declare:

1. I am an attorney duly licensed to practice in the courts of the State of California. I am an associate at Fulbright & Jaworski L.L.P. ("Fulbright"), counsel of record for Amazon.com, Inc. ("Amazon.com") in this action. I have personal knowledge of the facts set

forth in this declaration, and if called upon to do so, I could and would competently testify to them.

2. Amazon.com filed a Notice of the instant Opposition No. 91,122,000 on February 3, 2001.

3. On March 2, 2001, Amazon.com filed a lawsuit in the United States District Court for the Central District of California entitled *Amazon.com, Inc. v. Von Eric Lerner Kalaydjian d/b/a Amazon Cosmetics and Tan Products*, Case No. CV 01-02041 R (AIJx) (the "Action"). The complaint in the Action alleged, among other things, claims for trademark infringement, trademark dilution and violation of the Anticybersquatting Consumer Protection Act arising from Kalaydjian's registration of, and operation of a Web site from, the domain name <amazontan.com>.

4. On September 25, 2001, the Trademark Trial and Appeal Board ("TTAB") suspended Amazon.com's Opposition No. 91,122,000 pending the outcome of the Action.

5. In January 2002, the parties entered into a confidential settlement agreement disposing of the litigation. Kalaydjian no longer "owns" the <amazontan.com> domain name, and no longer operates a Web site from that Internet address. The settlement agreement did not resolve the parties' dispute concerning Kalaydjian's application to register COSMETICSAMAZON as a trademark.

6. On May 5, 2004, the TTAB resumed opposition proceedings for Opposition No. 91,122,000.

7. On July 1, 2004, Amazon.com served its First Set of Interrogatories and First Set of Requests for Admission, consisting of 41 requests for admission, on Kalaydjian, pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice. True and correct

copies of Amazon.com's First Sets of Requests for Admission and Interrogatories are attached hereto as Exhibits A and B.

8. On July 7, 2004, Respondent wrote to me at the email address <ssilbert@fulbright.com>, asserting that the Federal Rules of Civil Procedure do not apply to actions before the Trademark Trial and Appeals Board ("TTAB"). Respondent further denied that he had "the burden of answering my admissions or interrogatories." A true and correct copy of Respondent's email of July 7, 2004 is attached hereto as Exhibit C.

9. In a letter dated July 20, 2004, sent to Respondent by first class mail and email, I informed Respondent that he was required to serve responses to Amazon.com's discovery by July 31, 2004 and that failure to answer Requests for Admissions by that date would cause such Requests for Admission to be deemed admitted.

10. On July 22, 2004, Respondent served a "Response" to Amazon.com's First Sets of Requests for Admission and Interrogatories. This document consisted solely of a general objection (on grounds of untimeliness) and the demand that "THE TTAB . . . THROW OUT THIS OBSURD [sic] AND PROPOSTEROUS [sic] OPPOSITION AND . . . FULFILL THE COSMETICSAMAZON MARKS REGISTRATION." A true and correct copy of Respondent's July 22, 2004 objection is attached hereto as Exhibit D.

11. In a letter dated August 2, 2004, to Respondent by first class mail and email, I again advised Respondent of his obligation to serve complete responses to Amazon.com's First Sets of Requests for Admission and Interrogatories, and made a final request that Respondent promptly do so.

12. On August 5, 2004, Respondent served a Second Response to Amazon.com's First Set of Requests for Admission. Respondent failed to provide unqualified admissions to 34

out of 41 of the Requests for Admission. Respondent provided no response to Amazon.com's Interrogatory No. 1. A true and correct copy of Respondent's Response of August 5, 2004 is attached hereto as Exhibit E.

13. In a letter dated August 23, 2004, to Respondent by first class mail and email, I informed Respondent that he must answer Amazon.com's Interrogatory No. 1 by: (1) stating all facts upon which Respondent based his refusal to provide an unqualified admission to 34 out of Amazon.com's 41 Requests for Admission; (2) identifying all persons with knowledge of any such facts; and (3) identifying all documents that support Respondent's refusal to provide unqualified admissions.

14. On August 23, 2004, Respondent sent an email to me at the email address <[ssilbert@fulbright.com](mailto:ssilbert@fulbright.com)> stating:

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to ridiculous admissions.  
well your tacticts are only having amazon.com spend a terrible amount of money it is merely throwing away.  
THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET KNOCKED OUT.  
I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE.  
BEST REGARDS  
VELK

15. On August 23, 2004, Respondent sent a second email to John C. Rawls, a partner at Fulbright and counsel of record for Amazon.com, at the email address

<[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, stating:

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC LERNER

KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE  
LITERATURE.  
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.  
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.  
BEST REGARDS  
VELK

16. As of November 19, 2004, Fulbright had not received from Respondent a response to Amazon.com's Interrogatory No. 1. Consequently, on November 19, 2004, Amazon.com filed a Motion to Compel Discovery.

17. On or about April 12, 2005, this Board granted the Motion to Compel and issued an order ("Order") requiring Respondent to serve a full response to Interrogatory No. 1 within thirty (30) days from the date of mailing of the Order, resulting in a response deadline of May 12, 2005.

18. As of May 12, 2005, Petitioner had not received any response whatsoever to Interrogatory No. 1 from Respondent.

19. On June 15, 2005, I sent a letter to Respondent informing him that he failed to comply with the Board's Order. On June 16, 2005, Respondent sent an email to John C. Rawls at the email address <[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, stating:

Attn amazon.com attorneys.  
I have been severely ill and bed ridden for 5 months now.  
chronic gouty arthritis attacks , high blood pressure, etc.etc.etc  
i will be unable to send any interragatory answers to the u s p t o.  
you claim that the ttab will entertain sanctions.  
this dousnt mean that they will approve all sanctions asked for.  
i have decided to leave the opposition decision to fate.  
best regards  
von eric lerner kalaydjian I cannot hold a pen or pencil in either hand  
and I have become dependent on a hospital bed and wheelchair.

20. On June 23, 2005, Respondent sent an email to John C. Rawls at the email address <[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, requesting information regarding the discovery sanctions Amazon.com planned to seek against Kalaydjian.

21. On July 14, 2005, I sent a letter to Respondent, via email and certified U.S. Mail, informing him of the specific sanctions Petitioner would seek and that he would receive a copy of the motion for sanctions.

22. By email of July 15, 2005, Respondent again stated that he refused to provide responses to Amazon.com's Interrogatory No. 1.

23. Other than marks owned and used exclusively by Amazon.com, the only registration using the word "Amazon" on goods related to "cosmetics" is the mark AMAZON CARE CHEMICALS, which is used for chemicals used in the making of cosmetics, and not as a brand for selling cosmetics. On July 13, 2005, I searched the Trademark Electronic Search System ("TESS") on the United States Patent and Trademark Office Web site at the Internet address <<http://www.uspto.gov>> ("USPTO Site") for registered trademarks with the term "amazon" in the mark, and "cosmetics" in the description of goods and services. True and correct copies of pages printed from the USPTO Site reflecting the results of my search are attached hereto as Exhibit F. The search results included four trademark registrations, three of which—Registration No. 2,837,138 for AMAZON.COM<sup>®</sup>, Registration No. 2,832,943 for AMAZON<sup>®</sup>, and Registration No. 2,647,847 for AMAZON.COM OUTLET<sup>®</sup> marks—are owned and used exclusively by Amazon.com. The fourth trademark registration is Registration No. 2,647,847 for AMAZON CARE CHEMICALS for "[Chemical products for commercial purposes, namely, basic and intermediate chemicals for use in the manufacture of

cosmetics and personal care products] \* CHEMICAL PREPARATIONS FOR USE IN THE COSMETICS INDUSTRY; BASIC AND INTERMEDIATE PRODUCTS FOR THE COSMETIC INDUSTRY; NONE BEING FOR SALE TO END USERS \*” and “[Chemical research and chemistry consulting services in the area of cosmetic and personal care products and basic and intermediate products therefor] \* RESEARCH AND CONSULTANCY, NOT PROVIDED DIRECTLY TO END USERS, IN THE FIELD OF COSMETICS AND OF BASIC AND INTERMEDIATE PRODUCTS FOR THESE \*”. Thus, other than marks owned and used exclusively by Amazon.com, no other registered mark uses the term “amazon” as a brand for selling cosmetics to end users.

24. Similarly, other than marks owned and used exclusively by Amazon.com, only two registrations use “Amazon” on soap. On July 26, 2005, I searched TESS for registered trademarks with the term “amazon” in the mark, and “soap” or “soaps” in the description of goods and services. True and correct copies of pages printed from the USPTO Site reflecting the results of my search are attached hereto as Exhibit G. The search results included five trademark registrations, three of which—Registration No. 2,837,138 for AMAZON.COM<sup>®</sup>, Registration No. 2,832,943 for AMAZON<sup>®</sup>, and Registration No. 2,647,847 for AMAZON.COM OUTLET<sup>®</sup> marks—are owned and used exclusively by Amazon.com. The only other registrations for marks using “Amazon” on soap are Registration No. 294,8013 for AMAZON FACTORY THE MYSTERIES & MAGIC OF THE AMAZON and design, and Registration No. 163,6608 for AMAZONE and design.



25. Likewise, other than marks owned and used exclusively by Amazon.com, only one registration uses "Amazon" on perfume. On July 26, 2005, I searched TESS for registered trademarks with the term "amazon" in the mark, and "perfume" or "perfumes" or "perfumery" in the description of goods and services. True and correct copies of pages printed from the USPTO Site reflecting the results of my search are attached hereto as Exhibit H. The search results included four trademark registrations, three of which—Registration No. 2,837,138 for AMAZON.COM<sup>®</sup>, Registration No. 2,832,943 for AMAZON<sup>®</sup>, and Registration No. 2,647,847 for AMAZON.COM OUTLET<sup>®</sup> marks—are owned and used exclusively by Amazon.com. The only other registration for a mark using "Amazon" on perfume is Registration No. 163,6608 for AMAZONE and design.

26. Respondent currently operates a Web site at the Internet address <<http://www.velk.com>>. On July 27, 2005, I entered the term "velk.com" in the Internet search engine located at the Internet address <<http://www.betterwhois.com>>. Attached hereto, as Exhibit I is a printout of the results of the search, demonstrating that Respondent is the registrant of the domain name <velk.com>.

27. On July 27, 2005, I entered the domain name <velk.com> into my Internet browser, and reached the home page of the Web site currently operated by Respondent. The home page of Respondent's Web site at the Internet address <[www.velk.com](http://www.velk.com)> is attached hereto as Exhibit J.

28. I clicked my computer mouse on the home page at <velk.com> and was automatically directed to a directory page, a true and correct copy of which is attached hereto as Exhibit K.

29. The directory page of Respondent's Web site contains a link to products sold by Respondent. After clicking the "PRODUCTS" link with my computer mouse, I was automatically directed to a page on Respondent's Web site on which Respondent offers products for sale for the price of \$15. A true and correct copy of the "products" page of Respondent's Web site is attached hereto as Exhibit L.

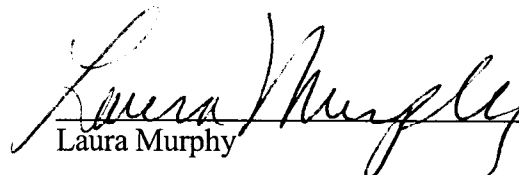
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 1, 2005

  
Sarah Silbert

CERTIFICATE OF SERVICE

I, Laura Murphy, hereby certify that I have mailed a true and correct copy of the foregoing AFFIDAVIT OF SARAH SILBERT IN SUPPORT OF AMAZON.COM'S MOTION FOR SUMMARY JUDGMENT, with sufficient postage affixed, on this 1<sup>st</sup> day of August, 2005, to the Respondent herein at the address 4226 Scandia Way, Los Angeles, California 90065-4329.

  
Laura Murphy

**Exhibit A**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

### **DEFINITIONS AND INSTRUCTIONS**

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.

2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.

4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

## REQUESTS FOR ADMISSION

### REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

### REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

### REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are fanciful marks.

### REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are valid trademarks.

### REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS<sup>®</sup> mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM® name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.



REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 42:

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls  
Sarah Silbert  
Attorneys for Opposer  
AMAZON.COM, INC.

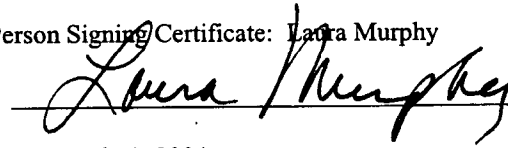
**Certificate of Mailing by Overnight Courier**

**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004



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Weight	Int'l Alpha Country Code	COO Fee \$	Insurance Fee \$
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Delivery Attempt	Time	Employee Signature	
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Date	Time	Employee Signature	
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM		

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*Valerie L. Winters*

*222 W. Waverly*

*LA CA 90065*

ZIP + 4

ZIP + 4

**Exhibit B**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.



For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

### **DEFINITIONS AND INSTRUCTIONS**

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.

3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.

4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs

(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to "IDENTIFY" shall mean to give, to the extent known: (i) the person's full name; (ii) the person's present or last known address and telephone number; and, when referring to a natural person, (iii) the person's present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to "IDENTIFY" shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to "IDENTIFY" means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

**INTERROGATORY NO. 1:** To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Appicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls  
Sarah Silbert  
Attorneys for Opposer  
AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

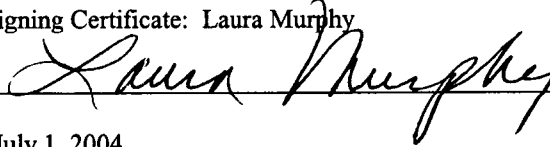
**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: \_\_\_\_\_



Date of Signing: July 1, 2004

From: Sarah Silbert (213)892-9288  
Fulbright & Jaworski L.L.P.  
865 S. Figueroa Street  
2900  
Los Angeles, CA 90017

**FedEx.**

To: Vdn Eric Lerner Kalaydjian (323)550-1221

FedEx Revenue Barcode

CAD #3208103  
SHIP DATE: 01JUL04  
WEIGHT: 1 LBS

4226 Scandia Way

Los Angeles, CA 90065

Ref:

RELEASE# SSilbert



DELIVERY ADDRESS (FedEx-EDR)

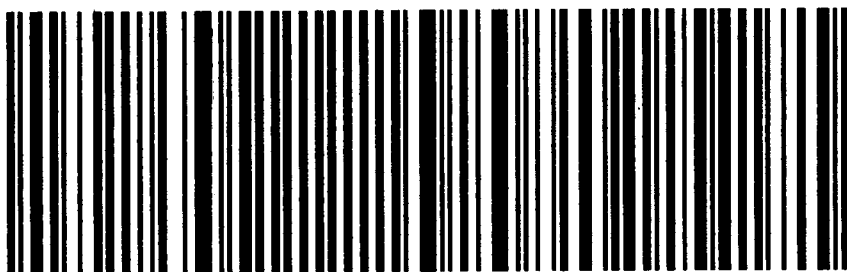
TRK #7906 8734 5628

FORM  
0201**PRIORITY OVERNIGHT  
BUR**

90065-CA-US

**QZ JGXA****FRI  
A2**

Deliver by:  
02JUL04



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## FEDEx SHIPPING LABEL

To prepare your package for shipment, you need to do the following:

1. Print this page to your laser printer. *It is recommended that you create an extra copy of this airbill for your records.*
  2. Fold the printed page in half and use as the shipping label.
  3. After printing the label, place it in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.
-

## Processing

We are processing your transaction. Please do not press any keys or mouse buttons. Please wait.....

---

**Your order has been placed.**

**Order Number: 202486**

Package	Tracking Number	Reference Notes
(1 of 1)	790687345628	(1 of 1)

Your Cost	\$6.33
-----------	--------

You may track or delete this order from your Orders/Status page.  
Another window should have popped open with labels and instructions. You must print out label on a laser printer and follow the instructions for its use.

[Submit another domestic FedEx Express order](#)

[Back to FedEx main](#) | [Orders/Status](#) | [Buyer Home](#) | [Corporate Community Home](#)

**Exhibit C**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**

**Silbert, Sarah**

---

**From:** KAmazonian@aol.com  
**Sent:** Wednesday, July 07, 2004 1:12 PM  
**To:** Silbert, Sarah  
**Subject:** COSMETICSAMAZON OPPOSITION 91122000

DEAR SARAH SILBERT AND AMAZON.COM LEGAL TEAM.

you have sent me 41 requests for admission and 1 set of interrogatories.

please be advised that anything i say can and could be used against me in a

court of law by possibly other business entitys.

RULE 33 of the federal rules of civil procedure do not apply in this opposition.

your client amazon.com withdrew from federal civil litigation with prejudice

therefore i do not believe i have the burden of answering any admissions

or interrogatories and therefore i shall hereby point this out to the

ttab uspto in writing prior to july 31 2004. i shall ask for a speedy

judgement in my favor for cosmeticsamazon.

meanwhile i would again want to respectfully remind amazon.com that

this can all go away by making me a good confidential business offer.

best regards

von eric lerner kalaydjian hope you all had a great july 4th

**Exhibit D**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



IN THE UNITED PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**AMAZON.COM INC**  
1200 12<sup>TH</sup> AVENUE SOUTH SUITE 1200  
SEATTLE WASHINGTON 98144

OPPOSER

v.

**VON ERIC LERNER KALAYDJIAN**  
4226 SCANDIA WAY  
LOS ANGELES CALIFORNIA 90065

APPLICANT

OPPOSITION 91122000 JULY 20, 2004

*Response*

APPLICANT HEREBY OBJECTS TO 41 REQUESTS OF ADMISSION  
AND ALSO OBJECTS TO THE ONE INTERROGATORIES.

OPPOSER IS UNTIMELY (late) IN TRYING TO PERSUE ON  
OPPOSITION RULING AGAINST APPLICANT.

APPLICANT HEREBY ASKS THE TTAB TO THROW OUT THIS  
OBSURD AND PROPOSTEROUS OPPOSITION AND TO  
FULLFILL THE COSMETICSAMAZON MARKS REGISTRATION.  
OPPOSER WITHDREW FROM A FEDERAL CIVIL LAWSUIT WITH  
PREJUDICE KNOWING FULL WELL THAT APPLICANT WAS USING  
THE COSMETICSAMAZON MARK AND AMAZON COSMETICS  
AMAZONTAN MARKS. amazon.com vs kalaydjian 2001.

*11/28/04 7-22-04*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

### **DEFINITIONS AND INSTRUCTIONS**

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.
2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.
4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.
5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

## REQUESTS FOR ADMISSION

### REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

### REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

### REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM® name and mark and logos incorporating that term are fanciful marks.

### REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM® name and mark and logos incorporating that term are valid trademarks.

### REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark is valid.

### REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark is valid.

### REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.



REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 42:

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls  
Sarah Silbert  
Attorneys for Opposer  
AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN  
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Los Angeles, California 90065,

Applicant.

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OPPOSER'S FIRST SET OF  
INTERROGATORIES - 1

[25427983\_1.DOC

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

### **DEFINITIONS AND INSTRUCTIONS**

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(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to "IDENTIFY" shall mean to give, to the extent known: (i) the person's full name; (ii) the person's present or last known address and telephone number; and, when referring to a natural person, (iii) the person's present or last known position and employer or business affiliation.

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### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

**INTERROGATORY NO. 1:** To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Applicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls

Sarah Silbert

Attorneys for Opposer

AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

**"Federal Express" Tracking Number: 790687345628**

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Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

**Exhibit E**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

9112200  
Opposition No. 122,000

SECOND  
RESPONSE  
TO  
ADMISSIONS

**RECEIVED**

AUG 05 2004

FULBRIGHT & JAWORSKI

amazon.com v von eric lerner kalaydjian opposition 91122000

applicants second response . trademark trial and appeal board

request for admission 1. admit

august 4,2004

request for admission 2. admit

request for admission 3. deny

request for admission 4. cannot admit or deny

request for admission 5. cannot admit or deny

request for admission 6. cannot admit or deny

request for admission 7 cannot admit or deny

request for admission 8 cannot admit or deny

request for admission 9 cannot admit or deny

request for admission 10 cannot admit or deny

request for admission 11. cannot admit or deny

request for admission 12. cannot admit or deny

request for admission 13 cannot admit or deny

request for admission 14 cannot admit or deny

request for admission 15 cannot admit or deny

request for admission 16 cannot admit or deny

request for admission 17 .DENY

request for admission 18 DENY

request for admission 19 DENY,

request for admission 20 cannot admit or deny

request for admission 21 deny

*[Handwritten signature and date]*  
2004

opposition 91122000

request for admission	22.	DENY
request for admission	23.	DENY
request for admission	24	DENY
request for admission	25	DENY
request for admission	26	DENY
request for admission	27	DENY
request for admission	28	DENY
request for admission	29	DENY
request for admission	30	DENY
request for admission	31	DENY
request for admission	32	DENY
request for admission	33	DENY
request for admission	34.	admit
request for admission	35.	admit
request for admission	36	deny
request for admission	37	admit
request for admission	38.	deny
request for admission	39	admit
request for admission	40	admit
request for admission	41	DENY

Aug 1 4 2004

**Exhibit F**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



## United States Patent and Trademark Office

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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78005997	2837138	AMAZON.COM	TARR	LIVE
2	78005143	2832943	AMAZON	TARR	LIVE
3	78000527	2649373	AMAZON.COM OUTLET	TARR	LIVE
4	75901733	2647847	AMAZON CARE CHEMICALS	TARR	LIVE

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## Typed Drawing

<b>Word Mark</b>	AMAZON.COM
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Auctioneering; automated and computerized trading of goods and services for others provided over a global communication information network; online retail store services featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof; photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, <b>cosmetics</b> , paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco not of medical use, smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards; and online mail order services featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof. photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, <b>cosmetics</b> , paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards. FIRST USE: 20001114. FIRST USE IN COMMERCE: 20001114

<b>Mark Drawing Code</b>	(1) TYPED DRAWING
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<b>Serial Number</b>	78005997
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<b>Filing Date</b>	April 27, 2000
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<b>Current Filing Basis</b>	1A
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<b>Original Filing Basis</b>	1B
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<b>Published for Opposition</b>	November 12, 2002
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**Registration Number** 2837138  
**Registration Date** April 27, 2004  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## Typed Drawing

**Word Mark** AMAZON  
**Goods and Services** IC 035. US 100 101 102. G & S: Electronic retailing services via computer featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances, applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof; photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, **cosmetics**, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards. providing an on-line searchable database featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances, applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof, photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, **cosmetics**, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards; auctioneering; computerized on-line ordering featuring books, music, motion pictures, multimedia presentations, computer software, magazines, periodicals, journals, and publications; providing a searchable on-line advertising guide featuring books, music, motion pictures, multimedia presentations, computer software, magazines, periodicals, journals, and publications. FIRST USE: 20011031. FIRST USE IN COMMERCE: 20011031

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 78005143

**Filing Date** April 21, 2000

**Current Filing Basis** 1A

**Original Filing Basis** 1B

**Published for**



**Opposition** September 3, 2002  
**Registration Number** 2832943  
**Registration Date** April 13, 2004  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** Susan Takemoto  
**Prior Registrations** 2078496;2167345  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing****Word Mark** AMAZON.COM OUTLET

**Goods and Services** IC 035. US 100 101 102. G & S: Electronic retailing services via computer featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof; photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, **cosmetics**, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards; and providing an on-line searchable database featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof. photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, soaps, perfumery, **cosmetics**, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards. FIRST USE: 20000315. FIRST USE IN COMMERCE: 20000315

**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 78000527**Filing Date** March 22, 2000**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** August 20, 2002**Registration** 2649373

**Number**  
**Registration Date** November 12, 2002  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OUTLET" APART FROM THE MARK AS SHOWN  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## Typed Drawing

Word Mark	AMAZON CARE CHEMICALS
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: [ Chemical products for commercial purposes, namely, basic and intermediate chemicals for use in the manufacture of cosmetic and personal care products ] *CHEMICAL PREPARATIONS FOR USE IN THE COSMETIC INDUSTRY; BASIC AND INTERMEDIATE PRODUCTS FOR THE COSMETIC INDUSTRY; NONE BEING FOR SALE TO END USERS *
	IC 042. US 100 101. G & S: [ Chemical research and chemistry consulting services in the area of cosmetic and personal care products and basic and intermediate products therefor ] * RESEARCH AND CONSULTANCY, NOT PROVIDED DIRECTLY TO END USERS, IN THE FIELD OF COSMETICS AND OF BASIC AND INTERMEDIATE PRODUCTS FOR THESE *
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75901733
Filing Date	January 24, 2000
Current Filing Basis	44E
Original Filing Basis	44D;44E
Published for Opposition	December 25, 2001
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	2647847
Registration Date	November 12, 2002
Owner	(REGISTRANT) Cognis Deutschland GmbH CORPORATION FED REP GERMANY Henkelstrasse 67 40589 Duesseldorf FED REP GERMANY
	(LAST LISTED OWNER) COGNIS DEUTSCHLAND GMBH & CO.KG DBA COGNIS DEUTSCHLAND GMBH & CO.KG CORPORATION FED REP GERMANY HENKELSTRASSE 67 R - INTELLECTUAL PROPERTY / TRADEMARKS DUESSELDORF FED REP GERMANY D-40589

**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** JOHN E. DRACH  
**Priority Date** July 23, 1999  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHEMICALS" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Exhibit G**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78409700	2948013	AMAZON FACTORY THE MYSTERIES & MAGIC OF THE RAIN FOREST	TARR	LIVE
2	78005997	2837138	AMAZON.COM	TARR	LIVE
3	78005143	2832943	AMAZON	TARR	LIVE
4	78000527	2649373	AMAZON.COM OUTLET	TARR	LIVE
5	73832910	1636608	AMAZONE	TARR	LIVE

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<b>Word Mark</b>	AMAZON FACTORY THE MYSTERIES & MAGIC OF THE RAIN FOREST
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: Body Lotion, body cream, face cream, liquid soap, hair conditioner, hair shampoo, massage oil, shower gels and bath gels. FIRST USE: 20031213. FIRST USE IN COMMERCE: 20040101
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	031519 050525 261121
<b>Serial Number</b>	78409700
<b>Filing Date</b>	April 28, 2004
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	February 15, 2005
<b>Registration Number</b>	2948013
<b>Registration Date</b>	May 10, 2005
<b>Owner</b>	(REGISTRANT) AMAZON FACTORY KATIA LEIDA N. DAS CHAGAS, USA 1 FRANCISCO J. DAS CHAGAS , USA PARTNERSHIP NEW YORK 1619 THIRD AVENUE, #6011 NEW YORK NEW YORK 10128
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "AMAZON" and "RAIN FOREST" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL



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Indicator**

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## Typed Drawing

Word Mark AMAZON.COM

**Goods and Services** IC 035. US 100 101 102. G & S: Auctioneering; automated and computerized trading of goods and services for others provided over a global communication information network; online retail store services featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof; photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, **soaps**, perfumery, cosmetics, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco not of medical use, smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards; and online mail order services featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances; applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof, photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, **soaps**, perfumery, cosmetics, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards. FIRST USE: 20001114. FIRST USE IN COMMERCE: 20001114

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 78005997

**Filing Date** April 27, 2000

**Current Filing Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** November 12, 2002

**Registration Number** 2837138  
**Registration Date** April 27, 2004  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
**Type of Mark** SERVICE MARK  
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**Word Mark** AMAZON  
**Goods and Services** IC 035. US 100 101 102. G & S: Electronic retailing services via computer featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances, applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof; photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, **soaps**, perfumery, cosmetics, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards. providing an on-line searchable database featuring books, music, videotapes, audiocassettes, compact discs, floppy discs and CD-Roms, printed matters, phonographs, recorded music, toys, household electronic appliances, applied electronic machines and apparatus, photography instruments, musical instruments and fittings thereof, photographs, stationery, jewelry, horological instruments and parts thereof, motor vehicles and parts and accessories thereof, manual and power tools, measuring instruments, physical and chemical instruments, chemicals, **soaps**, perfumery, cosmetics, paints, adhesive for industrial purposes, preservatives, leather, imitation leather, bags and their substitutes, umbrellas, walking sticks, saddlery, materials for building and construction, furniture, fabric, indoor ornaments of textile, tobacco (not of medical use), smokers articles, plants, pharmaceuticals, lights, irons and steels, pots, tableware, heaters, cosmetic utensils, yarns and thread for textile use, kitchen and household utensils, games and playthings, electronic publications and greeting cards; auctioneering; computerized on-line ordering featuring books, music, motion pictures, multimedia presentations, computer software, magazines, periodicals, journals, and publications; providing a searchable on-line advertising guide featuring books, music, motion pictures, multimedia presentations, computer software, magazines, periodicals, journals, and publications. FIRST USE: 20011031. FIRST USE IN COMMERCE: 20011031

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 78005143

**Filing Date** April 21, 2000

**Current Filing Basis** 1A

**Original Filing Basis** 1B

**Published for**

**Opposition** September 3, 2002  
**Registration Number** 2832943  
**Registration Date** April 13, 2004  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** Susan Takemoto  
**Prior Registrations** 2078496;2167345  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing****Word Mark** AMAZON.COM OUTLET

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**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 78000527**Filing Date** March 22, 2000**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** August 20, 2002**Registration** 2649373

**Number**  
**Registration Date** November 12, 2002  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
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**Type of Mark** SERVICE MARK  
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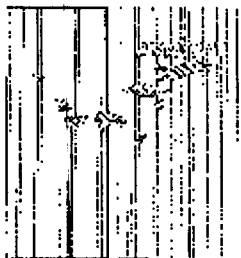


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<b>Word Mark</b>	AMAZONE
<b>Goods and Services</b>	IC 003. US 051 052. G & S: PERFUMES, PERFUMED WATER, TOILET WATER, TOILET SOAPS AND DEODORANTS
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	050325 261113 261121
<b>Serial Number</b>	73832910
<b>Filing Date</b>	October 23, 1989
<b>Current Filing Basis</b>	44E
<b>Original Filing Basis</b>	44D
<b>Published for Opposition</b>	December 11, 1990
<b>Registration Number</b>	1636608
<b>Registration Date</b>	March 5, 1991
<b>Owner</b>	(REGISTRANT) COMPTOIR NOUVEAU DE LA PARFUMERIE CORPORATION FRANCE 23, RUE BOISSY D'ANGLAS PARIS FRANCE
<b>Attorney of Record</b>	ANDREW BAUM
<b>Priority Date</b>	August 29, 1989
<b>Prior Registrations</b>	1019789
<b>Description of Mark</b>	THE MARK IS LINED FOR THE COLORS RED AND GREEN.



**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010613.  
**Renewal** 1ST RENEWAL 20010613  
**Other Data** THE TERMINOLOGY "AMAZONE" IS BOTH THE NAME OF A RIVER IN SOUTH AMERICA AND THE NAME OF THE RACE OF FEMALE WARRIORS OR EXTRAORDINARILY TALL AND STRONG WOMEN.  
**Live/Dead Indicator** LIVE

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**Exhibit H**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



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2	78005143	2832943	AMAZON	TARR	LIVE
3	78000527	2649373	AMAZON.COM OUTLET	TARR	LIVE
4	73832910	1636608	AMAZONE	TARR	LIVE

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## Typed Drawing

Word Mark AMAZON.COM

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**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 78005997

**Filing Date** April 27, 2000

**Current Filing Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** November 12, 2002

**Registration Number** 2837138  
**Registration Date** April 27, 2004  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing****Word Mark** AMAZON

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**Attorney of Record** Susan Takemoto  
**Prior Registrations** 2078496;2167345  
**Type of Mark** SERVICE MARK  
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**Mark Drawing Code** (1) TYPED DRAWING**Serial Number** 78000527**Filing Date** March 22, 2000**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** August 20, 2002**Registration** 2649373



**Number**  
**Registration Date** November 12, 2002  
**Owner** (REGISTRANT) Amazon.com, Inc. CORPORATION DELAWARE Suite 1200, 12th Ave. South Seattle WASHINGTON 981442734  
**Attorney of Record** SUSAN TAKEMOTO  
**Prior Registrations** 2078494;2078496;2167345  
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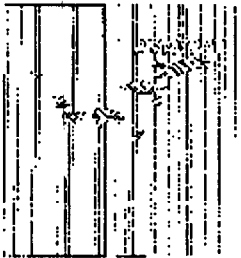
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<b>Design Search Code</b>	050325 261113 261121
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<b>Filing Date</b>	October 23, 1989
<b>Current Filing Basis</b>	44E
<b>Original Filing Basis</b>	44D
<b>Published for Opposition</b>	December 11, 1990
<b>Registration Number</b>	1636608
<b>Registration Date</b>	March 5, 1991
<b>Owner</b>	(REGISTRANT) COMPTOIR NOUVEAU DE LA PARFUMERIE CORPORATION FRANCE 23, RUE BOISSY D'ANGLAS PARIS FRANCE
<b>Attorney of Record</b>	ANDREW BAUM
<b>Priority Date</b>	August 29, 1989
<b>Prior Registrations</b>	1019789
<b>Description of Mark</b>	THE MARK IS LINED FOR THE COLORS RED AND GREEN.

**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010613.  
**Renewal** 1ST RENEWAL 20010613  
**Other Data** THE TERMINOLOGY "AMAZONE" IS BOTH THE NAME OF A RIVER IN SOUTH AMERICA AND THE NAME OF THE RACE OF FEMALE WARRIORS OR EXTRAORDINARILY TALL AND STRONG WOMEN.  
**Live/Dead Indicator** LIVE

---

<a href="#">TESS HOME</a>	<a href="#">NEW USER</a>	<a href="#">STRUCTURED</a>	<a href="#">FREE FORM</a>	<a href="#">BROWSE DICT</a>	<a href="#">TOP</a>	<a href="#">HELP</a>	<a href="#">PREV LIST</a>	<a href="#">CURR LIST</a>	<a href="#">NEXT LIST</a>	<a href="#">FIRST DOC</a>	<a href="#">PREV DOC</a>
<a href="#">NEXT LIST</a>	<a href="#">LAST DOC</a>										

---

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**Exhibit I**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**

# Better-Whois.com

...SEARCH ALL DOMAIN REGISTRARS

## velk.com is Reserved

Registrar: DOTSTER, INC.

Status: ACTIVE

Domain options / additional information: *(Click below to expand)*

- + if you own this domain...
- + if you are trying to register/buy this domain...
- + if you are researching this domain...

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information. Domain Name: VELK.COM

Registrar: DOTSTER, INC.

Whois Server: whois.dotster.com

Referral URL: <http://www.dotster.com>

Name Server: NS1.INETSMART.COM

Name Server: NS1.INETSMART.NET

Status: ACTIVE

Updated Date: 12-feb-2004

Creation Date: 12-apr-2000

Expiration Date: 12-apr-2006

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

Sponsored Link:

Create a world class site without any programming experience. Innovative all-in-one site-building, hosting and marketing product makes it easy!

[whois.dotster.com]

The data contained in the WHOIS database, while believed by the company to be reliable, is provided "as is", with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose, including but not limited to, allowing or making possible dissemination or collection of this data in part or in its entirety for any purpose, such as the transmission of unsolicited advertising and solicitations, is expressly forbidden without the prior written permission of this company. You may not use the data to allow, enable, or otherwise support any marketing activities, regardless of the medium used. Such media include but are not limited to e-mail, telephone, facsimile, postal mail, SMS, and wireless alerts. In addition, you may not sell or redistribute the data. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. Please limit your queries to 10 per minute and one connection.

Registrant:

Von Eric Lerner Kalaydjian

[Home page](#)[Link-to-Us](#)[Contact Us](#)

### Featured Registrar

Register a domain name with **Register.com** for only \$20. Includes:

- Free 10-page web site
- Free web forwarding
- Free e-mail forwarding
- Free domain locking
- Name portfolio manager
- Dynamic DNS service

[Click here for discounted rate.](#)

### Domain Registrars

DomainCity  
DomainDiscount24.com  
DomainDiscover  
DomainInfo.com  
DomainName, Inc.  
DomainPeople, Inc.  
DomainProcessor.com  
Domain Reg Services, Inc.  
DomainRegistry.com, Inc.  
Domain The Net Tech..  
DomainZoo.com, Inc.  
Doregi.com  
DotForce.com  
DotRegistrar.com  
Dotster, Inc.  
Eastern Comm. Co., Ltd.

4226 Scandia Way  
Los Angeles, CA 90065  
US

Registrar: DOTSTER  
Domain Name: VELK.COM  
Created on: 12-APR-00  
Expires on: 12-APR-06  
Last Updated on: 12-FEB-04

Administrative, Technical Contact:  
Kalaydjian, Von Eric Lerner mdiliberto@kleinbergler.com  
4226 Scandia Way  
Los Angeles, CA 90065  
US  
(323) 550-1221

Domain servers in listed order:  
NS1.INETSMART.NET  
NS1.INETSMART.COM

End of Whois Information

www.	<input type="text"/>	<b>Search</b>
Searches shared database registry and queries appropriate registrar.		

**Exhibit J**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**





**Exhibit K**

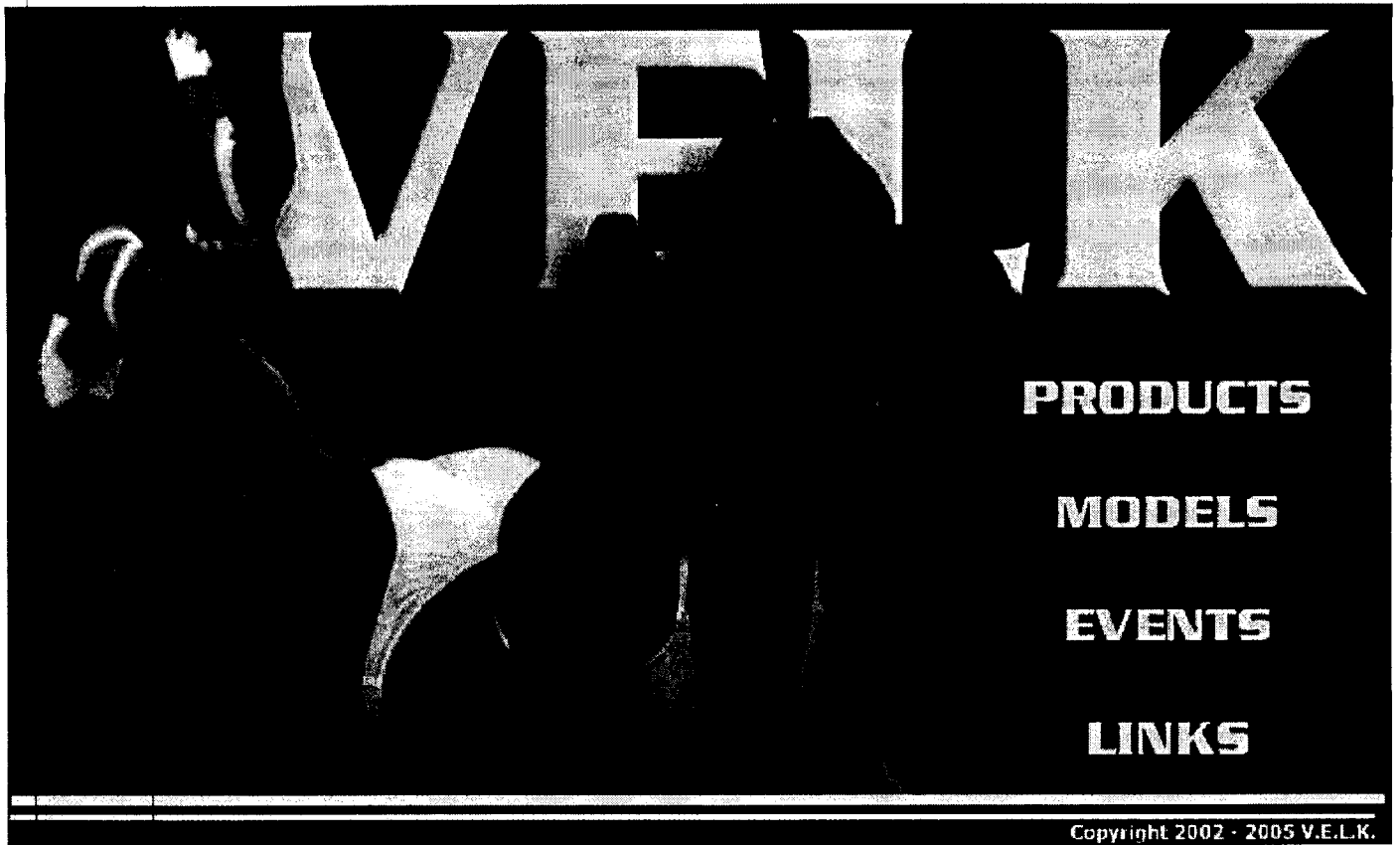
**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**



**Exhibit L**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.Com's Motion for Summary Judgment**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalayjdian**

**Offering Party: Amazon.com, Inc.**

## ORDER FORM

AmazonTan® Mango Scented  \$15.00 / 8 oz. bottleAmazonTan® Banana Scented  \$15.00 / 8 oz. bottleSub-Total 8% CA Sales Tax Shipping\* 

FREE

TOTAL Name : Address : City : State : Zip : Phone : Email : 

\* UPS Ground to US continental locations only.

20% Restocking fee will apply to all returned item(s).

Use your browser "Print" function to print this order form.

Send your order and payment to:

Amazon Cosmetics and Tan Products™

4226 Scandia Ave

Los Angeles, CA 90065

MAIN

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

I hereby certify that this MOTION FOR SANCTIONS is being deposited with the United States Postal Service as Express Mail, Air Bill No. EV 613591121 US, in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 1, 2005.

  
Laura Murphy

In re Serial No. 75-938,128

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

Opposition No. 91,122,000

BOX TTAB NO FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MOTION FOR SANCTIONS**

Petitioner in the position of the Plaintiff, Amazon.com, Inc. ("Amazon.com"), for its Motion for Sanctions, states and alleges as follows:

1. On July 1, 2004, Amazon.com served its First Set of Interrogatories and First Set of Requests for Admission (the "RFAs"), consisting of 41 requests for admission, on the Respondent in the position of the Defendant, Von Eric Lerner Kalaydjian, pursuant to the Federal Rules of Civil Procedure ("FRCP") and the Trademark Rules of Practice, 37 C.F.R.

§ 2.120, *et seq.* ("Rules"). Amazon.com's First Set of Interrogatories consisted of the following

Interrogatory No. 1:

To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Applicant is anything other than an unqualified admission, please  
(i) state all facts upon which YOUR refusal to admit is based;  
(ii) IDENTIFY all PERSONS with knowledge of any such facts; and  
(iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

True and correct copies of Amazon.com's RFAs and Interrogatories are attached to the accompanying Silbert Declaration, respectively as Exhibits A and B. In accordance with Rule 2.120(a) and FRCP 33 and 36, Respondent's responses to Petitioner's Interrogatory No. 1 and the RFAs were due July 31, 2004.

2. On July 7, 2004, Respondent wrote to counsel for Petitioner, asserting that the Federal Rules of Civil Procedure do not apply to actions before the Trademark Trial and Appeals Board ("TTAB"). Respondent further denied that he had "the burden of answering my admissions or interrogatories." Silbert Declaration, Exhibit C.

3. In a letter, dated July 20, 2004, counsel for Petitioner informed Respondent that he was required to serve responses to Amazon.com's discovery by July 31, 2004 and that failure to answer the RFAs by that date would cause each request for admission to be deemed admitted. Silbert Declaration, Exhibit D.

4. On July 22, 2004, Respondent served a "Response" to Amazon.com's RFAs and Interrogatories. This document consisted solely of a general objection (on grounds of the alleged "untimeliness" of the Opposition) and the demand that "THE TTAB . . . THROW OUT THIS OBSURD [sic] AND PROPOSTEROUS [sic] OPPOSITION AND . . . FULFILL THE COSMETICSAMAZON MARKS REGISTRATION." Silbert Declaration, Exhibit E.

5. In a letter, dated August 2, 2004, counsel for Petitioner again advised Respondent of his obligation to serve complete responses to the RFAs and Interrogatories, and made a final request that Respondent promptly do so. Silbert Declaration, Exhibit F.

6. On August 5, 2004, Respondent served a Second Response to the RFAs. Respondent failed to provide unqualified admissions to 34 out of 41 of the individual requests for admission contained in the RFAs. Nonetheless, Respondent did not answer Amazon.com's Interrogatory No. 1. Silbert Declaration, Exhibit G.

7. In a letter, dated August 23, 2004, counsel for Petitioner informed Respondent that he must answer Amazon.com's Interrogatory No. 1 by: (1) stating all facts upon which Respondent based his refusal to provide an unqualified admission to 34 out of Amazon.com's 41 Requests for Admission; (2) identifying all persons with knowledge of any such facts; and (3) identifying all documents that support Respondent's refusal to provide unqualified admissions. Silbert Declaration, Exhibit H.

8. On August 23, 2004, Respondent sent an email to counsel for Petitioner stating:

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to ridiculous admissions.  
well your tacticts are only having amazon.com spend a terrible amount of money it is merely throwing away.  
THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET  
KNOCKED OUT.  
I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE.  
BEST REGARDS  
VELK

Silbert Declaration, Exhibit I (errors in original).

9. On August 23, 2004, Respondent sent a second email to counsel for Petitioner stating:

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON  
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND  
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC  
LERNER  
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE  
LITERATURE.  
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.  
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.  
BEST REGARDS  
VELK

Silbert Declaration, Exhibit J (errors in original).

10. As of November 19, 2004, Respondent had not answered Amazon.com's Interrogatory No. 1. Thus, although Petitioner made a good faith effort to resolve the matter, Respondent continued to ignore his discovery obligations. Consequently, Petitioner filed a Motion to Compel a response to Interrogatory No. 1.

11. On April 12, 2005, this Board issued an order ("Order") determining that Respondent's failure to provide discovery, and specifically, a response to Interrogatory No. 1, was without substantial justification. The Order required Respondent to serve a full response to Interrogatory No. 1 within thirty (30) days from the date of mailing of the Order, resulting in a response deadline of May 12, 2005. Silbert Declaration, Exhibit K.

12. Implicit in the Board's Order is the finding that Petitioner propounded and served Interrogatory No. 1 upon Respondent in good faith, that Interrogatory No. 1 is not burdensome, and that the information sought therein is essential to preparation for and prosecution of this opposition.

13. Respondent failed to serve on Petitioner any response whatsoever to Interrogatory No. 1 by May 12, 2005.



14. In a letter dated June 15, 2005, counsel for Petitioner informed Respondent that he failed to comply with the Board's Order. Silbert Declaration, Exhibit L. Respondent was offered an additional five (5) days to provide a full response. *Id.* Petitioner, however, further offered Respondent time to explain whether and why he would need additional time to respond. Specifically, the letter informed Respondent that if he failed to provide a full response by June 30, 2005 or respond as to why and how much additional time he needed, Petitioner would seek sanctions and that the Board previously had indicated it would entertain sanctions. *Id.*

15. On June 16, 2005, Respondent sent an email stating that he could not provide a response purportedly due to his health. Significantly, Respondent did not indicate that he would *ever* provide a response, no matter how much additional time he was given. He further stated that he would leave the "opposition decision to fate." Silbert Declaration, Exhibit M. In this email, Respondent also acknowledged the Board might entertain sanctions. *Id.*

16. Notwithstanding Respondent's June 16, 2005 claim that his health is too poor to permit him to answer Interrogatory No. 1, Respondent has sent at least fourteen (14) additional emails to Petitioner's counsel making various demands. Respondent, however, still has not indicated that he will provide a response to Interrogatory No. 1, as required by the Board's Order. Silbert Declaration, ¶ 17.

17. On June 23, 2005, Respondent sent an email to counsel for Petitioner stating, in part:

I DO NOT UNDERSTAND WHY AMAZON.COM WILL NOT  
NEGOTIATE A SETTLEMENT AGREEMENT.  
CAN YOU PLEASE RELAY TO ME AMAZON.COMS  
SANCTION REQUESTS TO USPTO. WHAT WILL BE THE  
REQUEST????

Silbert Declaration, Exhibit N (errors in original).

18. As a courtesy to Respondent, and despite the fact that Respondent previously indicated no response to Interrogatory No. 1 would be forthcoming, on July 14, 2005, counsel for Petitioner sent a letter to Respondent via email and certified mail informing Respondent of the specific sanctions Petitioner would seek. Silbert Declaration, Exhibit O.

19. In a July 15, 2005 email, Respondent confirmed to Petitioner's counsel that he received the July 14, 2005 letter. Silbert Declaration Exhibit P. Respondent's July 15, 2005 email explicitly stated that he will not be providing any response to Interrogatory No. 1:

DEAR SARAH SILBERT AND MR JOHN CARLISLE RAWLS.  
YOU ARE STATING IN A LETTER I HAVE JUST RECEIVED  
THAT YOU WILL ASK FOR CERTAIN SANCTIONS .  
SEEKING CERTAIN SANCTIONS SUCH AS PROHIBITING ME FROM  
USING ANY FACTS DOCUMENTS TESTIMONY OR OTHER EVIDENDCE  
I WAS OBLIGED TO BUT FAILED TO DO SO IN INTERRAGATORY NO.1  
PLEASE BE ADVISED THAT I WILL BEAT AMAZON.COM LEGAL  
DEPARTMENT IN THESE PROCEEDINGS.  
BY ANSWERING YOUR CERTAIN REQUEST FOR INTERRAGATORYS  
I WOULD HAVE WEAKENED MY DEFENSE.  
THE BURDEN OF PROOF IS ON AMAZON.COM AND  
MY SERVICEMARK HAS ALREADY BEEN APPROVED FOR OVER  
4 YEARS NOW.  
I BELIEVE AMAZON.COM HAS A LOT TO LOSE AND WOULD BE  
AT AN ADVANTAGE BY SETTLING THIS OPPOSITION .  
REGARDS  
VELK

*Id.* (errors in original).

20. Thus, Petitioner has made numerous good faith attempts to meet and confer on this issue prior to seeking action from the Board pursuant to FRCP 37(d) and Rule 2.120(e)(1) of the Trademark Rules of Practice.

21. Pursuant to the Order, the discovery period in above-captioned cause closed on June 1, 2005. Petitioner's testimony period is now set to close August 30, 2005.

### **BRIEF IN SUPPORT**

Respondent has blatantly refused to comply with a discovery order, refusing to identify facts, documents or witnesses relevant to nearly 40 requests for admission that Respondent failed to admit. By doing so, Respondent has deprived Opposer Amazon.com of information relevant to nearly every aspect of this matter, including any information supporting the basis for Respondent's refusal to admit the date of his awareness of the existence of the AMAZON.COM<sup>®</sup> marks, the validity of Petitioner's AMAZON.COM<sup>®</sup> marks, the likelihood of confusion between the AMAZON.COM<sup>®</sup> marks and COSMETICSAMAZON, and the dilution of the AMAZON.COM<sup>®</sup> marks, to name just a few. The Federal Rules of Civil Procedure -- which are applicable to this proceeding generally and this motion specifically -- provide for a wide array of potential sanctions when discovery orders are ignored. Here, Opposer asks simply that Respondent be prohibited from relying upon any of the facts, documents, testimony, or other evidence he was obligated to, but failed to provide in response to Opposer's Interrogatory No. 1.

Although the Federal Rules of Civil Procedure give Petitioner the right to seek harsher sanctions, Petitioner believes that such an evidentiary sanction is fair and proportionate to the harm Respondent has caused. Without at least this level of sanction, Respondent would benefit unfairly from his flouting of the Board's original discovery Order. The penalty would be

proportional to the harm caused by his disobedience of the Board's Order; he would not be prohibited from using evidence that was not the subject of the Interrogatory to which he failed to respond. Case law and simple fairness support Respondent's request for evidentiary sanctions to prevent Respondent from benefiting from his disobedience and to deter him from future abuse of the Board's rules and procedures.

**I. Respondent Failed to Comply With This Board's Order Compelling Complete Responses to Interrogatory No. 1 by May 12, 2005, Which Warrants Sanctions.**

Rule 2.120(g) provides that if a party fails to comply with an order of the Board, the Board "may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure . . ." Rule 37(b)(2) states that if a party fails to obey an order to provide or permit discovery, the court in which the action is pending may issue an order concerning the failure as is just. Rule 37(b)(2) specifically authorizes the following:

- (A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
- (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
- (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party . . .

The sanctions provided under Rule 37(b)(2) are thus proper because the Board previously entered an Order compelling discovery from Respondent and he disobeyed that Order. *See, e.g.,*

*Nike Inc. v. Wolverine World Wide Inc.*, 43 F.3d 644, 649 (Fed. Cir. 1994) (where court orally instructed Nike to provide full disclosure in response to requests for discovery, issued preclusion sanctions for Nike's failure to do so was warranted). The Board's Order, issued on April 12, 2005 specifically required Respondent to provide a response to Interrogatory No. 1, without objection, by May 12, 2005. This, in turn, required Respondent to state, for each of the 34 individual requests for admission that he did not admit, to: (i) state all facts upon which his refusal to admit is based; (ii) identify all persons with knowledge of any such facts; and (iii) identify all documents that support his refusal to admit. Moreover, Respondent persisted in his refusal to answer the Interrogatory after Petitioner demanded compliance, specifically notified Respondent of the potential consequences of his failure to comply, and even offered him additional time to respond and/or explain why he needed additional time and when he could provide responses. Respondent replied by stating that he could not provide responses and would leave the "opposition to fate."

As of the date of this motion and a year after Respondent's response to Interrogatory No. 1 initially was due, and despite being able to send numerous haranguing emails, Respondent still has not provided the required response to Interrogatory No. 1 as ordered by the Board and has made clear his intention not to provide a response. Thus, sanctions are warranted.

## **II. The Requested Evidentiary Sanctions Are Appropriate.**

Although Respondent's conduct and willful disregard of the Board's Order justifies case dispositive sanctions, Petitioner seeks a lesser evidentiary sanction that precludes Respondent from introducing any facts, documents, testimony, or other evidence he would have been obligated to provide in response to Interrogatory No. 1.

Rule 2.120(g) and FRCP 37(b)(2) permit the Board to impose sanctions ranging from deeming facts or issues established, refusing to allow the disobedient party from supporting or opposing claims or defenses and introducing designated matters into evidence, to the ultimate authority of impose terminating sanctions resulting in dismissals and default judgments. *Fed. R. Civ. Proc. 37(b)(2)(A)-(C)*; *Ingalls Shipbuilding, Inc. v. United States*, 857 F.2d 1448 (Fed Cir. 1988); *MHW Ltd. v. Simex, Aussenhandels-gesellschaft Savelsberg KG*, 59 USPQ2d 1477 (TTAB 2000). The type of sanctions imposed is within the discretion of the Board. *See, e.g., Ingalls Shipbuilding, supra*, 857 F.2d at 1450.

The Supreme Court has repeatedly affirmed that disciplinary sanctions for willful discovery violations are justified by the need to facilitate a full and complete discovery process. *See, e.g., Taylor v. Illinois*, 484 U.S. 400, 408, 108 S.Ct. 646, 653, 98 L.Ed. 2d 798, 810 (1988), *quoting U.S. v. Nixon*, 418 U.S. 683, 709, 94 S.Ct. 3090, 3108, 41 L.Ed. 2d 1039, 1064 (1974). Similarly, the Court has explained that discovery sanctions, and specifically case dispositive sanctions, serve three primary objectives: (1) to penalize the party whose conduct is deemed to warrant the sanction and to make sure that the noncompliant party does not benefit from its failures; (2) to act as a specific deterrent in order to obtain compliance with the particular order at issue; and (3) to act as a general deterrent in the instant case and other litigation for those who might be tempted to engage in such conduct absent a deterrent. *See, e.g., National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643, 96 S.Ct. 2778, 2781, 49 L.Ed.2d 747, 751 (1976) (per curiam).

These objectives are best served here if the Board were to impose the requested evidentiary exclusion sanction. Quite simply, Respondent should not be permitted to benefit from his willful failure to comply with the Board's Order. An evidentiary exclusion sanction

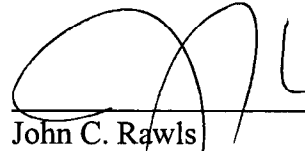
will provide the necessary specific deterrent to prevent Respondent from committing future abuses of this process in the future, as well as serving as a general deterrent to others.

Respondent failed not only to comply with initial discovery obligations, but subsequently disregarded the Board's Order. Respondent has had over a year since Petitioner served Interrogatory No. 1 to provide a response and more than three months since the Board issued its Order. In addition, Petitioner offered Respondent additional time to respond, but Respondent indicated no response would be forthcoming. Petitioner also warned Respondent that the Board previously indicated it would entertain sanctions and that Petitioner would seek sanctions. Fully acknowledging the specific sanctions Petitioner would seek, Respondent nevertheless confirmed that he would not provide a response solely because it would weaken his case. Thus, Petitioner has and will continue to be prejudiced in its ability to oppose the application because it has no idea what the basis is for any of Respondent's denials of Petitioner's RFAs.

Finally, Respondent's dubious claim that his health precludes him from providing a response does not excuse him from the consequences of his failure to provide ordered discovery. Respondent clearly has the ability to write and to communicate with Petitioner; he has sent a stream of emails to Amazon.com's counsel "inviting" Petitioner to participate (i.e., finance and back) in various business proposals. Moreover, Respondent's own words demonstrate that he has simply abandoned all efforts to participate in this proceeding: he has chosen to "leave the opposition to fate" rather than responding to discovery. There is no legitimate excuse for Respondent's non-compliance. The requested sanction is more than proportionate to Respondent's misconduct and appropriate to prohibit Respondent from benefiting from his wrongful conduct.

**WHEREFORE, PREMISES CONSIDERED,** Petitioner prays for an Order imposing the requested sanctions on Respondent due to Respondent's continued failure to answer Interrogatory No. 1 and Respondent's willful disregard of this Board's April 12, 2005 Order granting Petitioner's Motion to Compel, and for all other relief to which it might prove itself entitled.

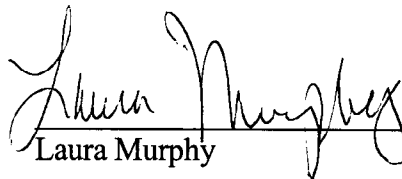
DATED: August 1, 2005



John C. Rawls  
Sarah Silbert  
FULBRIGHT & JAWORSKI L.L.P.  
Attorneys for Petitioner Amazon.com, Inc.  
555 S. Flower Street, Floor 41  
Los Angeles, California 90071  
Telephone: (213) 892-9237  
Facsimile: (213) 680-4518

CERTIFICATE OF SERVICE

I, Laura Murphy, hereby certify that I have mailed a true and correct copy of the foregoing MOTION FOR SANCTIONS, with sufficient postage affixed, on this 1<sup>st</sup> day of August, 2005, to the Respondent herein at the address 4226 Scandia Way, Los Angeles, California 90065-4329.

  
Laura Murphy



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD

I hereby certify that this DECLARATION OF SARAH SILBERT  
IN SUPPORT OF MOTION FOR SANCTIONS is being deposited  
with the United States Postal Service as Express Mail, Air Bill No.  
EV 613591121 US in an envelope addressed to: Commissioner for  
Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on  
August 17, 2005

Laura Murphy

In re Serial No. 75-938,128

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

Opposition No. 91,122,000

BOX TTAB NO FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**DECLARATION OF SARAH SILBERT IN SUPPORT OF**  
**MOTION FOR SANCTIONS**

I, Sarah Silbert, declare:

1. I am an attorney duly licensed to practice in the courts of the State of California. I am an associate at Fulbright & Jaworski L.L.P. ("Fulbright"), counsel of record for Amazon.com, Inc. ("Amazon.com") in this action. I have personal knowledge of the facts set

forth in this declaration, and if called upon to do so, I could and would competently testify to them.

2. On July 1, 2004, Amazon.com served its First Set of Interrogatories and First Set of Requests for Admission, consisting of 41 requests for admission, on the Respondent in the position of the Defendant, Von Eric Lerner Kalaydjian, pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice. True and correct copies of Amazon.com's First Sets of Requests for Admission and Interrogatories are attached hereto as Exhibits A and B.

3. On July 7, 2004, Respondent wrote to me at the email address <ssilbert@fulbright.com>, asserting that the Federal Rules of Civil Procedure do not apply to actions before the Trademark Trial and Appeals Board ("TTAB"). Respondent further denied that he had "the burden of answering my admissions or interrogatories." A true and correct copy of Respondent's email of July 7, 2004 is attached hereto as Exhibit C.

4. In a letter dated July 20, 2004, sent to Respondent by first class mail and email, I informed Respondent that he was required to serve responses to Amazon.com's discovery by July 31, 2004 and that failure to answer Requests for Admissions ("RFAs") by that date would cause such RFAs to be deemed admitted. A true and correct copy of my letter of July 31, 2004 is attached hereto as Exhibit D.

5. On July 22, 2004, Respondent served a "Response" to Amazon.com's First Sets of Requests for Admission and Interrogatories. This document consisted solely of a general objection (on grounds of untimeliness) and the demand that "THE TTAB . . . THROW OUT THIS OBSURD [sic] AND PROPOSTEROUS [sic] OPPOSITION AND . . . FULFILL THE COSMETICSAMAZON MARKS REGISTRATION." A true and correct copy of Respondent's July 22, 2004 "Response" is attached hereto as Exhibit E.

6. In a letter dated August 2, 2004, to Respondent by first class mail and email, I again advised Respondent of his obligation to serve complete responses to Amazon.com's First Sets of Requests for Admission and Interrogatories, and made a final request that Respondent promptly do so. A true and correct copy of my letter of August 2, 2004, is attached hereto as Exhibit F.

7. On August 5, 2004, Respondent served a Second Response to Amazon.com's First Set of Requests for Admission. Respondent failed to provide unqualified admissions to 34 out of 41 of the RFAs. Nonetheless, Respondent did not answer Amazon.com's Interrogatory No. 1. A true and correct copy of Respondent's Second Response of August 5, 2004 is attached hereto as Exhibit G.

8. In a letter dated August 23, 2004, to Respondent by first class mail and email, I informed Respondent that he must answer Amazon.com's Interrogatory No. 1 by: (1) stating all facts upon which Respondent based his refusal to provide an unqualified admission to 34 out of Amazon.com's 41 RFAs; (2) identifying all persons with knowledge of any such facts; and (3) identifying all documents that support Respondent's refusal to provide unqualified admissions. A true and correct copy of my letter of August 22, 2004 is attached hereto as Exhibit H.

9. On August 23, 2004, Respondent sent an email to me at the email address <[ssilbert@fulbright.com](mailto:ssilbert@fulbright.com)> stating:

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to ridiculous admissions.

well your tacticts are only having amazon.com spend a terrible amount

of money it is merely throwing away.

THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND

JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO  
GET  
KNOCKED OUT.  
I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY  
PURSE.  
BEST REGARDS  
VELK

A true and correct copy of Respondent's email of August 23, 2004 is attached hereto as  
Exhibit I (all errors in original).

10. On August 23, 2004, Respondent sent a second email to John C. Rawls, a partner  
at Fulbright and counsel of record for Amazon.com, at the email address  
<[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, stating:

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON  
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND  
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC  
LERNER  
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE  
LITERATURE.  
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.  
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.  
BEST REGARDS  
VELK

A true and correct copy of Respondent's email of August 23, 2004 is attached hereto as  
Exhibit J (all errors in original).

11. As of November 19, 2004, Fulbright had not received from Respondent a  
response to Amazon.com's Interrogatory No. 1.

12. Consequently, on November 19, 2004, Amazon.com filed a Motion to  
Compel Discovery.

13. On or about April 12, 2005, this Board granted the Motion to Compel and  
issued an order ("Order") requiring Respondent to serve a full response to Interrogatory  
No. 1 within thirty (30) days from the date of mailing of the Order, resulting in a

response deadline of May 12, 2005. A true and correct copy of the Board's April 12, 2005 Order is attached hereto as Exhibit K.

14. As of May 12, 2005, Petitioner had not received any response whatsoever to Interrogatory No. 1 from Respondent.

15. On June 15, 2005, I sent a letter to Respondent informing him that he had failed to comply with the Board's Order. A true and correct copy of my June 15, 2005 letter is attached hereto as Exhibit L.

16. On June 16, 2005, Respondent sent an email to John C. Rawls at the email address <[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, stating:

Attn amazon.com attorneys.

I have been severely ill and bed ridden for 5 months now.

chronic gouty arthritis attacks , high blood pressure, etc.etc.etc

i will be unable to send any interrrogatory answers to the u s p t o.

you claim that the ttab will entertain sanctions.

this dousnt mean that they will approve all sanctions asked for.

i have decided to leave the opposition decision to fate.

best regards

von eric lerner kalaydjian I cannot hold a pen or pencil in either hand

and I have become dependent on a hospital bed and wheelchair.

A true and correct copy of Respondent's June 16, 2005 email is attached hereto as Exhibit M (all errors in original).

17. Since June 16, 2005, Respondent has sent at least fourteen (14) additional emails to either me or John C. Rawls, none of which indicated Respondent would provide a response as required by the Board's Order. In most of these emails Respondent discusses a new "business venture" in which he invites Petitioner to participate (*i.e.* fund and back).

18. On June 23, 2005, Respondent sent an email to John C. Rawls at the email address <[jrawls@fulbright.com](mailto:jrawls@fulbright.com)>, stating:

mr john c rawls , sarah silbert and associates.

dear sir mr john c rawls.

i must admit i am a little confused. HOW IN THE WORLD DOES AMAZON.COM EXPECT TO WIN OPPOSITION PROCEEDINGS WHEN IN FACT IN THE YEAR 2000 -2001 AN AGENT APPARENTLY WORKING AS AN AUTHORIZED AMAZON.COM AFFILIATE ACTUALLY HELPED WITH KEEPING COSMETICSAMAZON IN USE BY SENDING ME A CHECK FOR AMAZON TANNING LOTION FROM WASHINGTON STATE. DO YOU NOT RECALL? I SENT A SAMPLE TO WASHINGTON STATE. I DO NOT UNDERSTAND WHY AMAZON.COM WILL NOT NEGOTIATE A SETTLEMENT AGREEMENT. CAN YOU PLEASE RELAY TO ME AMAZON.COMS SANCTION REQUESTS TO USPTO. WHAT WILL BE THE REQUEST????

BEST REGARDS

VELK.COM I BELIEVE AMAZON.COM IS CONTRADICTING ITSELF WITH THE SETTLEMENT IT HAD ME SIGN A FEW YEARS AGO AND ITS CONTINUING ACTIONS.

BEST REGARDS

A true and correct copy of Respondent's June 23, 2005 email is attached hereto as Exhibit N (all errors in original).

19. On July 14, 2005, I sent a letter to Respondent, via email and certified U.S. Mail, informing him of the specific sanctions Petitioner would seek and that he would receive a copy of the motion for sanctions. A true and correct copy of my July 14, 2005 letter is attached hereto as Exhibit O.

20. On July 15, 2005, Respondent sent an email to Petitioner's counsel stating that he could not open the July 14, 2005 letter as an email attachment. However, later in the afternoon of July 15, 2005, Respondent confirmed in a second email to me that he received the July 15 letter via U.S. Mail. A true and correct copy of Respondent's second July 15, 2005 email is attached hereto as Exhibit P. In the second July 15, 2005 email, Respondent again indicated that no response to Interrogatory No. 1 would be forthcoming, and stated specifically:

DEAR SARAH SILBERT AND MR JOHN CARLISLE RAWLS.  
YOU ARE STATING IN A LETTER I HAVE JUST RECEIVED  
THAT YOU WILL ASK FOR CERTAIN SANCTIONS .  
SEEKING CERTAIN SANCTIONS SUCH AS PROHIBITING ME FROM  
USING ANY FACTS DOCUMENTS TESTIMONY OR OTHER EVIDENDCE  
I WAS OBLIGED TO BUT FAILED TO DO SO IN INTERRAGATORY NO.1  
PLEASE BE ADVISED THAT I WILL BEAT AMAZON.COM LEGAL  
DEPARTMENT IN THESE PROCEEDINGS.  
BY ANSWERING YOUR CERTAIN REQUEST FOR INTERRAGATORY  
I WOULD HAVE WEAKENED MY DEFENSE.  
THE BURDEN OF PROOF IS ON AMAZON.COM AND  
MY SERVICEMARK HAS ALREADY BEEN APPROVED FOR OVER  
4 YEARS NOW.  
I BELIEVE AMAZON.COM HAS A LOT TO LOSE AND WOULD BE  
AT AN ADVANTAGE BY SETTLING THIS OPPOSITION .  
REGARDS  
VELK

Id. (all errors in original).

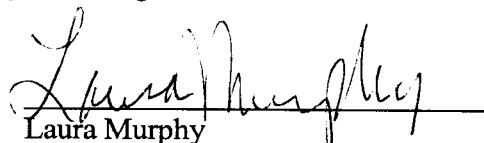
I declare under penalty of perjury under the laws of the United States of  
America that the foregoing is true and correct.

Dated: August 1, 2005

  
Sarah Silbert

CERTIFICATE OF SERVICE

I, Laura Murphy, hereby certify that I have mailed a true and correct copy of the  
foregoing DECLARATION OF SARAH SILBERT IN SUPPORT OF MOTION FOR  
SANCTIONS, with sufficient postage affixed, on this 1st day of August, 2005, to the  
Respondent herein at the address 4226 Scandia Way, Los Angeles, California 90065-4329.

  
Laura Murphy

**Exhibit A**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

### **DEFINITIONS AND INSTRUCTIONS**

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.

2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.

4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

## REQUESTS FOR ADMISSION

### REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

### REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

### REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are fanciful marks.

### REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are valid trademarks.

### REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS<sup>®</sup> mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS<sup>®</sup> mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.



REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

**REQUEST FOR ADMISSION NO. 42:**

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls  
Sarah Silbert  
Attorneys for Opposer  
AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

**Exhibit B**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

### **DEFINITIONS AND INSTRUCTIONS**

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.
3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.
4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs

(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to "IDENTIFY" shall mean to give, to the extent known: (i) the person's full name; (ii) the person's present or last known address and telephone number; and, when referring to a natural person, (iii) the person's present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to "IDENTIFY" shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to "IDENTIFY" means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

**INTERROGATORY NO. 1:** To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Appicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls

Sarah Silbert

Attorneys for Opposer

AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

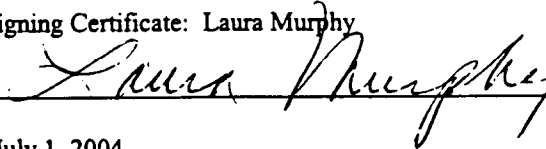
**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: \_\_\_\_\_



Date of Signing: July 1, 2004

**Exhibit C**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**



**Silbert, Sarah**

---

**From:** KAmazonian@aol.com  
**Sent:** Wednesday, July 07, 2004 1:12 PM  
**To:** Silbert, Sarah  
**Subject:** COSMETICSAMAZON OPPOSITION 91122000

DEAR SARAH SILBERT AND AMAZON.COM LEGAL TEAM.

you have sent me 41 requests for admission and 1 set of interrogatories.

please be advised that anything i say can and could be used against me in a

court of law by possibly other business entities.

RULE 33 of the federal rules of civil procedure do not apply in this opposition.

your client amazon.com withdrew from federal civil litigation with prejudice

therefore i do not believe i have the burden of answering any admissions

or interrogatories and therefore i shall hereby point this out to the

ttab uspto in writing prior to july 31 2004. i shall ask for a speedy

judgement in my favor for cosmeticsamazon.

meanwhile i would again want to respectfully remind amazon.com that

this can all go away by making me a good confidential business offer.

best regards

von eric lerner kalaydjian hope you all had a great july 4th

**Exhibit C- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

**Exhibit D**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
865 SOUTH FIGUEROA STREET, 29TH FLOOR  
LOS ANGELES, CALIFORNIA 90017  
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM  
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200  
FACSIMILE: (213) 680-4518

**Certified Article Number**

July 20, 2004

7106 4575 1294 0739 6239

**SENDERS RECORD**

**BY EMAIL AND CERTIFIED MAIL**

Von Eric Lerner Kalaydjian  
4226 Scandia Way  
Los Angeles, California 90065-4329  
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

This will respond to your email of July 7, 2004 concerning Amazon.com's First Sets of Requests for Admissions and Special Interrogatories served on July 1, 2004 in the above-referenced matter.

Please be advised that the Federal Rules of Civil Procedure relating to the service of Special Interrogatories and Requests for Admission govern discovery in trademark oppositions before the Trademark Trial and Appeals Board. See 37 CFR § 2.120 (2003). Thus, you must serve responses to Amazon.com's first sets of written discovery by July 31, 2004. Pursuant to Rule 36, any Requests for Admissions to which you fail to respond by that time will be deemed admitted. Fed. R. Civ. P. 36.

Very truly yours,



Sarah Silbert

**Exhibit D- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

Von Eric Lerner Kalaydjian  
July 20, 2004  
Page 2

Bcc: Stephen Bishop, Esq.  
John C. Rawls, Esq.

**Exhibit E**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

IN THE UNITED PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**AMAZON.COM INC**  
1200 12<sup>TH</sup> AVENUE SOUTH SUITE 1200  
SEATTLE WASHINGTON 98144

OPPOSITION 91122000 JULY 20, 2004

OPPOSER

V.

**VON ERIC LERNER KALAYDJIAN**  
4226 SCANDIA WAY  
LOS ANGELES CALIFORNIA 90065

APPLICANT

*Response*

APPLICANT HEREBY OBJECTS TO 41 REQUESTS OF ADMISSION  
AND ALSO OBJECTS TO THE ONE INTERROGATORIES.

OPPOSER IS UNTIMELY (late) IN TRYING TO PERSUE ON  
OPPOSITION RULING AGAINST APPLICANT.

APPLICANT HEREBY ASKS THE TTAB TO THROW OUT THIS  
OBSURD AND PROPOSTEROUS OPPOSITION AND TO  
FULLFILL THE COSMETICSAMAZON MARKS REGISTRATION.

OPPOSER WITHDREW FROM A FEDERAL CIVIL LAWSUIT WITH  
PREJUDICE KNOWING FULL WELL THAT APPLICANT WAS USING  
THE COSMETICSAMAZON MARK AND AMAZON COSMETICS  
AMAZONTAN MARKS. amazon.com vs kalaydjian 2001.

*11.2.04*  
*7-22-04*

Exhibit E- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

### **DEFINITIONS AND INSTRUCTIONS**

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.

3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.

4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs



(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to "IDENTIFY" shall mean to give, to the extent known: (i) the person's full name; (ii) the person's present or last known address and telephone number; and, when referring to a natural person, (iii) the person's present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to "IDENTIFY" shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to "IDENTIFY" means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

**INTERROGATORY NO. 1:** To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Appicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls  
Sarah Silbert  
Attorneys for Opposer  
AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

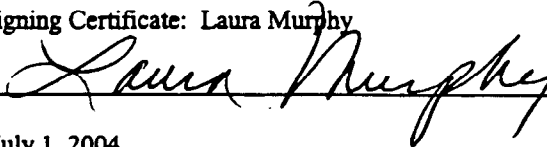
**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: \_\_\_\_\_



Date of Signing: July 1, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

25427614.1

OPPOSER'S FIRST SET OF REQUESTS FOR  
ADMISSION - 1

Exhibit E- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.

### **DEFINITIONS AND INSTRUCTIONS**

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.
2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.
4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.
5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

## REQUESTS FOR ADMISSION

### REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

### REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

### REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are fanciful marks.

### REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are valid trademarks.

### REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM<sup>®</sup> mark is valid.

### REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS<sup>®</sup> mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM® name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM<sup>®</sup> name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.



**REQUEST FOR ADMISSION NO. 25:**

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

**REQUEST FOR ADMISSION NO. 26:**

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

**REQUEST FOR ADMISSION NO. 27:**

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

**REQUEST FOR ADMISSION NO. 28:**

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM® name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

**REQUEST FOR ADMISSION NO. 42:**

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls

Sarah Silbert

Attorneys for Opposer

AMAZON.COM, INC.

**Certificate of Mailing by Overnight Courier**

**"Federal Express" Tracking Number: 790687345628**

**Date of Deposit: July 1, 2004**

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: 

Date of Signing: July 1, 2004

**Exhibit F**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
865 SOUTH FIGUEROA STREET, 29TH FLOOR  
LOS ANGELES, CALIFORNIA 90017  
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM  
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200  
FACSIMILE: (213) 680-4518

**Certified Article Number**

7106 4575 1294 0739 7397

**SENDERS RECORD**

August 2, 2004

## BY EMAIL AND CERTIFIED MAIL

Von Eric Lerner Kalaydjian  
4226 Scandia Way  
Los Angeles, California 90065-4329  
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

This will respond to your email of July 7, 2004 concerning Amazon.com's First Sets of Requests for Admissions and Special Interrogatories served on July 1, 2004 in the above-referenced matter.

Please be advised that the Federal Rules of Civil Procedure relating to the service of Special Interrogatories and Requests for Admission govern discovery in trademark oppositions before the Trademark Trial and Appeals Board. See 37 CFR § 2.120 (2003). Thus, you were required to serve responses to Amazon.com's first sets of written discovery by July 31, 2004. Pursuant to Rule 36, you are deemed to have admitted all of our requests because you failed to deny them by that time. Fed. R. Civ. P. 36.

You appear to believe that no response is required because the Opposition was resolved in the Settlement Agreement that you entered with Amazon.com in 2002. That is not the case. In fact, section 1.8 of the Settlement Agreement specifically gives Amazon.com the right to continue its Opposition to the currently pending trademark application Serial No. 75938128 for COSMETICSAMAZON in International Class 35.

By this letter, we make one final request that you to comply with your discovery obligations. Specifically, we ask that you promptly serve substantive responses to our Requests for Admission, admitting or denying each individual request. Further, to the extent you deny any individual Request for Admission, you must also provide us with a written answer to our Interrogatory No. 1. If you fail to provide these additional responses within ten (10) days of the

**Exhibit F- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

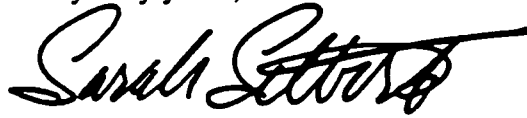
25435194.1

HOUSTON • NEW YORK • WASHINGTON DC • AUSTIN • DALLAS • LOS ANGELES • MINNEAPOLIS • SAN ANTONIO • HONG KONG • LONDON • MUNICH

Von Eric Lerner Kalaydjian  
August 2, 2004  
Page 2

date of this letter, Amazon.com will move forward with its planned motion for summary judgment, and will rely upon the admissions resulting from your failure to respond to the Request for Admission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sarah Silbert", with a long horizontal flourish extending to the right.

Sarah Silbert

Exhibit F- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.

**Exhibit G**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.  
1200 12<sup>th</sup> Avenue South, Suite 1200  
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN  
4226 Scandia Way  
Los Angeles, California 90065,

Applicant.

9/112200  
Opposition No. 122,000

SECOND  
RESPONSE  
TO  
ADMISSIONS

**RECEIVED**

AUG 05 2004

FULBRIGHT & JAWORSKI

Exhibit G - Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.

amazon.com v von eric lerner kalaydjian opposition 91122000

applicants second response . trademark trial and appeal board

august 4,2004

request for admission	1. admit
request for admission	2. admit
request for admission	3. deny
request for admission	4. cannot admit or deny
request for admission	5. cannot admit or deny
request for admission	6. cannot admit or deny
request for admission	7. cannot admit or deny
request for admission	8. cannot admit or deny
request for admission	9. cannot admit or deny
request for admission	10. cannot admit or deny
request for admission	11. cannot admit or deny
request for admission	12. cannot admit or deny
request for admission	13. cannot admit or deny
request for admission	14. cannot admit or deny
request for admission	15. cannot admit or deny
request for admission	16. cannot admit or deny
request for admission	17. DENY
request for admission	18. DENY
request for admission	19. DENY
request for admission	20. cannot admit or deny
request for admission	21. deny

opposition 91122000

request for admission	22.	DENY
request for admission	23.	DENY
request for admission	24	DENY
request for admission	25	DENY
request for admission	26	DENY
request for admission	27	DENY
request for admission	28	DENY
request for admission	29	DENY
request for admission	30	DENY
request for admission	31	DENY
request for admission	32	DENY
request for admission	33	DENY
request for admission	34.	admit
request for admission	35.	admit
request for admission	36	deny
request for admission	37	admit
request for admission	38.	deny
request for admission	39	admit
request for admission	40	admit
request for admission	41	DENY

**Exhibit H**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
865 SOUTH FIGUEROA STREET, 29TH FLOOR  
LOS ANGELES, CALIFORNIA 90017  
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM  
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200  
FACSIMILE: (213) 680-4518

**Certified Article Number**

7106 4575 1294 0739 6291

**SENDERS RECORD**

August 23, 2004

**BY EMAIL AND CERTIFIED MAIL**

Von Eric Lerner Kalaydjian  
4226 Scandia Way  
Los Angeles, California 90065-4329  
kamazonian@aol.com

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

We are in receipt of your Second Response, dated August 4, 2004, to Amazon.com's First Sets of Requests for Admission. In your Second Response, you failed to provide unqualified admissions to 34 out of 41 of the requests.

In light of this, you must answer, but have not answered, Amazon.com's Interrogatory No. 1. That Interrogatory requests that, for each request for admission to which you responded with anything other than "admit," you must: (1) state all facts upon which you base your refusal to provide an unqualified admission; (2) identify all persons with knowledge of any such facts; and (3) identify all documents that support your refusal to admit. If you believe that any of the documents that you have produced support your refusal to admit to one or more of the requests for admission, you must identify the specific documents that you claim support your refusal to deny the specific request or requests for admission.

Your response to Amazon.com's First Set of Interrogatories was due on July 31, 2004. Please be advised that Amazon.com will bring a motion to compel a response to Interrogatory No. 1 if it does not receive a full and complete response within fifteen (15) days of the date of this letter.

Very truly yours,



Sarah Silbert

**Exhibit H- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

25444857.1

**Exhibit I**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

**Silbert, Sarah**

---

**From:** KAmazonian@aol.com  
**Sent:** Monday, August 23, 2004 4:10 PM  
**To:** Silbert, Sarah  
**Subject:** cosmeticsamazon 91122000

dear mr john c rawls and sarah silbert.

it is clear that you are DESPERATE. you dont have a win. you cant possibly win opposition so your JUST using acts of desperation to try to get me to admit to rediculous admissions.

well your tacticts are only having amazon.com spend a terrible amount

of money it is merely throwing away.

THIS IS EQUIVALENT TO A BOXING MATCH. YOUR JABBING AND JABBING AND JABBING AND IN THE 7TH ROUND YOUR GOING TO GET KNOCKED OUT.

I GUESS THATS ALLRIGHT WE ALL HAVE A PIECE OF THE MONEY PURSE.

BEST REGARDS  
VELK

**Exhibit J**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**



**Silbert, Sarah**

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**From:** KAmazonian@aol.com  
**Sent:** Monday, August 23, 2004 4:58 PM  
**To:** Rawls, John C.  
**Subject:** cosmeticsamazon opposition 91122000

mr john c rawls and sarah silbert.

IT IS CLEAR TO ME AND ANY IDIOT THAT COSMETICSAMAZON  
AND AMAZON.COM ARE DIFFERENT IN SOUND SIGHT AND  
PERCEPTION OF ANY CONSUMERS MIND AND THAT I VON ERIC LERNER  
KALAYDJIAN WILL NOT BE SENDING YOU ANY MORE LITERATURE.  
IFF YOU FEEL YOU NEED TO TRY TO COMPELL THEN DO SO.  
I AM NOT ANSWERING ANY MORE REDICULOUS QUESTIONS.

BEST REGARDS  
VELK

**Exhibit K**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

az

Mailed: April 12, 2005

Opposition No. 91122000

AMAZON.COM, INC.

v.

VON ERIC LERNER KALAYDJIAN

Before Chapman, Bucher and Drost, Administrative Trademark  
Judges.

By the Board.

This case now comes up on (1) opposer's motion (filed November 19, 2004 via certificate of mailing) to compel a response to Interrogatory No. 1 of opposer's first set of interrogatories; and (2) applicant's combined motion (filed January 13, 2005) to dismiss and its untimely response to opposer's motion to compel. Both motions are addressed in turn below.

***Opposer's Motion to Compel***

Applicant (proceeding pro se) has not filed a timely response to opposer's motion to compel. Trademark Rules 2.127(a) and 2.119(c) provide that a response to a motion (except for a motion for summary judgment) must be filed within fifteen days of the date of service of the motion, or twenty days if, as was done here, service of the motion was

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Exhibit K- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.

made by first class mail. Therefore, applicant's response to opposer's motion to compel was due on December 9, 2004. Because we must take into account applicant's pro se status, and because the Board has not received an objection from opposer to the filing of applicant's untimely response, we have exercised our discretion and have considered applicant's response to opposer's motion to compel. See Trademark Rule 2.127(a); and TBMP § 502.04 (2d ed. rev. 2004).

Applicant's argument in response to the motion is not well taken. Applicant maintains - in a paper typed entirely in capital letters and replete with spelling mistakes, grammatical errors and incoherent arguments - that "ALL DISCOVERY WAS PRODUCED TO OPPOSER IN THE YEAR 2001."<sup>1</sup> However, opposer served Interrogatory No. 1 on July 1, 2004, three years after 2001, and the record is devoid of any evidence that applicant made any response to opposer's Interrogatory No. 1 (which seeks identification of persons with knowledge of and all documents relating to applicant's denials of opposer's first set of requests for admissions).

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<sup>1</sup> We are aware that the Board suspended proceedings in this case on September 25, 2001, in view of a civil action between the parties, i.e., Civil Action No. 01-02041 in the United States District Court for the Central District of California. This will be further addressed in this order.

In view of the foregoing, opposer's motion to compel is granted, and applicant is ordered to serve a full response to Interrogatory No. 1 on opposer's attorney of record within **thirty days** from the mailing date of this order, without making any objections<sup>2</sup> to Interrogatory No. 1.

Should applicant fail to comply with this order in the time period allowed, the Board will entertain a motion for sanctions by opposer. See Trademark Rule 2.120(g).

***Applicant's Motion to Dismiss***

Applicant maintains in its two-page motion that its motion is "BASED ON THE WRONGFULL ONGOING ACTIONS OF AMAZON.COM CORP ET ALL.," stating that "OPPOSER HAS BEEN INVOLVED IN CHEAP, LUDICROUS, DANGEROUS, TACTICTS THAT HAVE BEEN HARRASING AND BULLY TACTICTS AGAINST APPLICANT ... AND MALICIOUSLY THREATED APPLICANT THAT AMAZON.COM MAY GO TO LAW ENFORCEMENT STATING AND ACCUSING AGAIN THAT I VON ERIC LERNER KALAYDJIAN IS A CRIMINAL"; and that "OPPOSER AMAZON.COM CORP. HAVING KNOWLEDGE OF COSMETICSAMAZON WEBSITE VLK.COM ALLOWED AN ENTITY WITHOUGHT MY CONSENT OR PERMISSION TO SUBMIT AND ADVERTISE AN AMERICAN TRADEMARK ... FROM THE AMAZON.COM A9.COM SEARCH ENGINE FOR VLK.COM." (Capitalization in the original.)

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<sup>2</sup> Applicant has waived its right to object by not timely responding to the interrogatory. See TEMP § 405.04(a) (2d ed. rev. 2004).

Opposition No. 91122000

Applicant's motion to dismiss is denied for the following reasons: (1) it was filed after the Board suspended proceedings for consideration of opposer's motion to compel and ordered that no party should file any paper which is not germane to the motion in accordance with Trademark Rule 2.120(e)(2), and the motion is not germane to the motion to compel; (2) it does not show proper proof of service as required by Trademark Rule 2.119(c) and applicant was clearly previously advised of this requirement in the Board order dated May 5, 2004; and (3) the motion to dismiss is not well taken.

Proceedings are now resumed and the discovery and trial periods are reset as indicated below. IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Trademark Rule 2.125.

DISCOVERY TO CLOSE: June 1, 2005

30-day testimony period for party  
in position of plaintiff to close: August 30, 2005

30-day testimony period for party  
in position of defendant to close: October 29, 2005

15-day rebuttal testimony period  
to close: December 13, 2005

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

Opposition No. 91122000

Additionally, as noted in footnote 1, proceedings in this case were suspended on September 25, 2001 pending final disposition of a civil action between the parties. The parties have not indicated whether the final disposition of the civil action has a bearing on this case. Thus, opposer is allowed until **thirty days** from the mailing date of this order to (1) inform the Board how the court disposed of the civil action, including any appeals; (2) file a copy of the pleadings in the civil action, and (3) file a copy of the court order(s) disposing of the civil action.

-oOo-

**Exhibit L**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**



**FULBRIGHT & JAWORSKI L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
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FORTY-FIRST FLOOR  
LOS ANGELES, CALIFORNIA 90071  
WWW.FULBRIGHT.COM

SSILBERT@FULBRIGHT.COM  
DIRECT DIAL: (213) 892-9288

TELEPHONE: (213) 892-9200  
FACSIMILE: (213) 680-4518

**Certified Article Number**

June 15, 2005

7106 4575 1294 0737 1366

**SENDERS RECORD**

**BY MAIL AND CERTIFIED MAIL**

Von Eric Lerner Kalaydjian  
4226 Scandia Way  
Los Angeles, California 90065-4329

Re: COSMETICSAMAZON Opposition No. 91/122,000

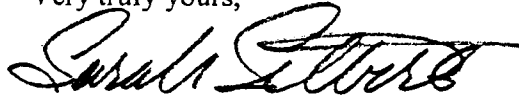
Dear Mr. Kalaydjian:

As you know, on April 12, 2005 the Trademark Trial and Appeals Board ("Board") issued an order requiring you to provide a full response to Amazon.com's Interrogatory No. 1, without objection, within thirty (30) days from the mailing date of the order ("April 12 Order"). Based on the April 12 Order, your full response to Interrogatory No. 1 was due on May 12, 2005. To date, we have not received any response to Interrogatory No. 1 from you.

Your required response is already over a month overdue from the May 12 deadline set by the Board. Therefore, please immediately comply with your discovery obligations as ordered by the Board and provide a full response without objections to Interrogatory No. 1 by no later than June 20, 2005. If you need additional time past June 20, 2005, please provide an explanation as to why more time is needed, and we will consider extending the deadline.

Please be advised that if we do not receive satisfactory responses by June 30, 2005, or hear from you as to whether and why you need additional time, Amazon.com will file a Motion for Sanctions. The Board specifically indicated in its April 12 Order that it will consider imposing sanctions should you fail to comply with the April 12 Order.

Very truly yours,



Sarah Silbert

SS

**Exhibit L- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

30942573.1

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**Exhibit M**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

**Silbert, Sarah**

---

**From:** KAmazonian@aol.com  
**Sent:** Thursday, June 16, 2005 12:38 PM  
**To:** Rawls, John C.  
**Subject:** cosmeticsamazon

attn amazon.com attorneys.

I have been severely ill and bed ridden for 5 months now.

chronic gouty arthritis attacks , high blood pressure, etc.etc.etc

i will be unable to send any interrrogatory answers to the uspto.

you claim that the ttab will entertain sanctions.

this dousnt mean that they will approve all sanctions asked for.

i have decided to leave the opposition decision to fate.

best regards

von eric lerner kalaydjian i cannot hold a pen or pencil in either hand

and i have become dependent on a hospital bed and wheelchair.

07/11/2005

**Exhibit M- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

**Exhibit N**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

**Taketa, Allyson**

---

**From:** Rawls, John C.  
**Sent:** Tuesday, July 05, 2005 2:52 PM  
**To:** Silbert, Sarah  
**Subject:** FW: von eric lerner kalaydjian

FYI

Rocky

-----Original Message-----

**From:** KAmazonian@aol.com [mailto:KAmazonian@aol.com]  
**Sent:** Thursday, June 23, 2005 7:01 PM  
**To:** Rawls, John C.  
**Subject:** von eric lerner kalaydjian

mr john c rawls , sarah silbert and associates.

dear sir mr john c rawls.

i must admit i am a little confused. HOW IN THE WORLD DOES  
 AMAZON.COM EXPECT TO WIN OPPOSITION PROCEEDINGS  
 WHEN IN FACT IN THE YEAR 2000 -2001 AN AGENT  
 APPARENTLY WORKING AS AN AUTHORIZED AMAZON.COM  
 AFFILIATE ACTUALLY HELPED WITH KEEPING COSMETICSAMAZON  
 IN USE BY SENDING ME A CHECK FOR AMAZON TANNING  
 LOTION FROM WASHINGTON STATE. DO YOU NOT RECALL?  
 I SENT A SAMPLE TO WASHINGTON STATE.  
 I DO NOT UNDERSTAND WHY AMAZON.COM WILL NOT  
 NEGOTIATE A SETTLEMENT AGREEMENT.  
 CAN YOU PLEASE RELAY TO ME AMAZON.COMS  
 SANCTION REQUESTS TO USPTO. WHAT WILL BE THE  
 REQUEST????

BEST REGARDS

VELK.COM I BELIEVE AMAZON.COM IS CONTRADICTING ITSELF  
 WITH THE SETTLEMENT IT HAD ME SIGN A FEW YEARS AGO  
 AND ITS CONTINUING ACTIONS.

BEST REGARDS

07/11/2005

**Exhibit N- Opp. No. 91,122,000  
 Amazon.com, Inc. v. Kalaydjian  
 Offering Pty: Amazon.com, Inc.**

VE;LK.COM

07/11/2005

**Exhibit N- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

**Exhibit O**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

**FULBRIGHT & JAWORSKI L.L.P.**

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TELEPHONE: (213) 892-9200  
FACSIMILE: (213) 680-4518

July 14, 2005

**BY EMAIL AND CERTIFIED MAIL**

Von Eric Lerner Kalaydjian  
4226 Scandia Way  
Los Angeles, California 90065-4329

Re: COSMETICSAMAZON Opposition No. 91/122,000

Dear Mr. Kalaydjian:

In your email of June 23, 2005, you asked us to relay to you what sanctions Amazon.com would be seeking from the Trademark Trial and Appeals Board ("Board") as a result of your failure to comply with the Board's April 12, 2005 order requiring you to provide a full response to Amazon.com's Interrogatory No. 1, without objection, by May 12, 2005.

In response to your request, please be advised that Amazon.com will seek sanctions prohibiting you from introducing in this proceeding any facts, documents, testimony or other evidence you were obligated to, but failed to provide in response to Interrogatory No. 1. You will receive a copy of Amazon.com's motion for sanctions when it is filed.

Very truly yours,

  
Sarah Silbert

SS

**Exhibit O- Opp. No. 91,122,000  
Amazon.com, Inc. v. Kalaydjian  
Offering Pty: Amazon.com, Inc.**

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**Exhibit P**

**to Affidavit of Sarah Silbert**

**In Support of Amazon.com's Motion for Sanctions**

**Opposition No. 91,122,000**

**Amazon.com, Inc. v. Kalaydjian**

**Offering Party: Amazon.com, Inc.**

**Silbert, Sarah**

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**From:** KAmazonian@aol.com  
**Sent:** Friday, July 15, 2005 1:44 PM  
**To:** Silbert, Sarah  
**Subject:** cosmeticsamazon sanctions request

DEAR SARAH SILBERT AND MR JOHN CARLISLE RAWLS.

YOU ARE STATING IN A LETTER I HAVE JUST RECEIVED  
THAT YOU WILL ASK FOR CERTAIN SANCTIONS .

SEEKING CERTAIN SANCTIONS SUCH AS PROHIBITING ME FROM  
USING ANY FACTS DOCUMENTS TESTIMONY OR OTHER EVIDENDCE  
I WAS OBLIGED TO BUT FAILED TO DO SO IN INTERRAGATORY NO.1

PLEASE BE ADVISED THAT I WILL BEAT AMAZON.COM LEGAL  
DEPARTMENT IN THESE PROCEEDINGS.

BY ANSWERING YOUR CERTAIN REQUEST FOR INTERRAGATORYS  
I WOULD HAVE WEAKENED MY DEFENSE.

THE BURDEN OF PROOF IS ON AMAZON.COM AND  
MY SERVICEMARK HAS ALLREADY BEEN APPROVED FOR OVER  
4 YEARS NOW.

I BELIEVE AMAZON.COM HAS ALOT TO LOSE AND WOULD BE  
AT AN ADVANTAGE BY SETTLING THIS OPPOSITION .

REGARDS  
VELK

07/15/2005

**Exhibit P- Opp. No. 91,122,000**  
**Amazon.com, Inc. v. Kalaydjian**  
**Offering Pty: Amazon.com, Inc.**